

NUCLEAR REGULATORY COMMISSION AUTHORIZATION
ACT FOR FISCAL YEAR 1999

AUGUST 6, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

R E P O R T

[To accompany H.R. 3532]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 3532) to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1999, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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AMENDMENT

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 8, line 9, strike “Commission.” and all that follows through line 12 and insert “Commission;.”

Page 10, beginning on line 22, strike “subsection.’” and insert “subsection;.”

Page 12, line 12, strike “Act.’” and insert “Act’.”

PURPOSE AND SUMMARY

H.R. 3532 would authorize the activities of the Nuclear Regulatory Commission (NRC or the Commission) for Fiscal Year 1999, extend the authorization for the NRC to collect 100 percent of its budget through user fees and annual charges to the end of Fiscal Year 2003, and make a number of minor changes to the Commission’s authorizing statutes. The NRC is responsible for regulating the Nation’s utilization of radioactive materials and ensuring the protection of public health and safety.

BACKGROUND AND NEED FOR LEGISLATION

The NRC was established by Congress in the Energy Reorganization Act of 1974 (P.L. 93–438). As part of its broader requirement to consolidate all energy-related functions of the Federal government (and creating the Department of Energy), the Act also eliminated the Atomic Energy Commission (AEC) and created the NRC as an independent agency in its place.

Under its regulatory authorities as established in the Energy Reorganization Act and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the NRC is responsible for regulating the civilian use of radioactive materials, including industrial applications, medical and academic uses, and commercial nuclear power generation. Its regulatory role also extends to the transportation, storage, and disposal of nuclear materials and waste.

In general, any use of nuclear materials requires the user or handler to have a license issued by the Commission (or, in the case of approved Agreement States, the involved State) to undertake such activities. This applies to nearly every aspect of matters involving nuclear materials—from the construction and operation of nuclear reactors, to the transportation or handling of radioactive materials, to the design of nuclear waste disposal sites. With this licensor/licensee relationship, the threat of license revocation and the NRC’s use of civil penalties are the Commission’s primary means of ensuring compliance with its regulations.

Until the 99th Congress, the NRC had received regular biennial authorization from Congress. Since Fiscal Year 1985, the Commission has depended on the permanent statutory authority of the Atomic Energy Act and the Energy Reorganization Act to conduct its activities. The funding levels included in H.R. 3532 represent the Commission’s request to Congress. For Fiscal Year 1999, the NRC has requested a total of \$488,640,000 for its activities, a 3.9 percent increase over the Fiscal Year 1998 estimate of \$472,800,000. Its budget is subdivided into several strategic areas.

1. NUCLEAR REACTOR SAFETY

This function is responsible specifically for the regulation of civilian nuclear reactors, from the design and construction of reactors to their actual operation. Currently, there are 104 licensed civilian power reactors in the United States and 43 non-power test and research reactors. Activities under Nuclear Reactor Safety include licensing operations, inspections of nuclear reactor facilities, enforcement actions, and whistleblower investigations. For Fiscal Year 1999, the bill authorizes \$211.4 million for Nuclear Reactor Safety, slightly less than the Fiscal Year 1998 estimate of \$211.9 million.

At its hearing on this measure, Members of the Subcommittee on Energy and Power questioned NRC Commissioners about increases in the number of low-priority, severity level 4 violations assessed against nuclear power licensees, despite an overall increase in the performance of nuclear power units. These level 4 and other non-cited violations deal with process, record-keeping practices, and other activities that, while important to general plant maintenance, are not directly related to plant safety.

This continued focus on deterministic, process-oriented, inspection-intensive regulatory framework is at odds with the Commission's own vision of licensee regulation. The NRC has, for years, advocated a risk-informed and performance-based approach to regulation. While the Commission has taken some steps to implement this more enlightened method, it is clear that a focused, results-oriented approach has been slow in coming.

2. NUCLEAR MATERIALS SAFETY

Nuclear Materials Safety includes the regulation of those nuclear functions not covered by the Nuclear Reactor Safety account. This includes a broad range of activity, from the regulation of nuclear fuel cycle activities, to medical uses of radioactive materials, to assisting the Department of Energy (DOE) in the oversight of several projects, including: the commercial vitrification of high-level radioactive waste at the Hanford site; the use of commercial reactors for tritium production; and DOE's external regulation pilot program. It also includes the NRC's activities in coordinating the Agreement State program with States which have chosen to accept the regulatory responsibilities for a host of nuclear activities. H.R. 3532 authorizes \$48.9 million in Fiscal Year 1999 for Nuclear Materials Safety, a 5.5 percent increase over the \$46.3 million estimate for Fiscal Year 1998.

The Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, as amended) (OBRA90) requires the Commission to recover approximately 100 percent of its budget through annual charges and user fees. As a result, the NRC utilizes annual charges assessed against licensees to cover the costs of administering programs which do not directly relate to the regulation of, nor provide a direct benefit to, these licensees. The Commissioners, during their testimony before the Subcommittee on Energy and Power, identified activities totaling approximately \$50 million annually which fall into this category; many of which are included in the Nuclear Materials Safety account.

The OBRA90 provision requires the NRC to establish, by rule, a schedule to “fairly and equitably” allocate the annual charges among its licensees, and to ensure that these charges “have a reasonable relationship to the cost of providing regulatory services.” The NRC has indicated that it is currently evaluating its programs to more accurately identify those areas involving fairness and equity issues for licensees. The Committee commends this effort, and expects the Commission to submit its findings and recommendations for Congressional action to address this issue by December 31, 1998.

3. NUCLEAR WASTE SAFETY

This account covers three areas of the NRC’s operation: (1) activities associated with the development of the proposed permanent repository for high-level radioactive waste at Yucca Mountain, Nevada; (2) the NRC’s costs of helping to administer the Low-Level Radioactive Waste Policy Act (P.L. 96–573, as amended), in coordination with States and Low-Level Waste Compacts; and (3) activities associated with the licensing and inspection of spent nuclear fuel storage facilities and transportation canisters. For Fiscal Year 1999, the bill authorizes \$29.1 million for Nuclear Waste Safety, a 21 percent increase from the Fiscal Year 1998 estimate of \$24.1 million. This figure includes a proposed \$18.5 million appropriation from the Nuclear Waste Fund to pay for the NRC’s planned Yucca Mountain activities.

One of the critical elements of Nuclear Waste Safety is the work of the Spent Fuel Project Office (SFPO). The SFPO was originally created by the Commission in April 1995 in recognition of the increasing demands for the approval of technologies and activities associated with the storage and transportation of spent nuclear fuel. At the time, a major anticipated initiative for the SFPO was the review of the DOE design for a multi-purpose canister (MPC) for the transportation, storage, and disposal of spent fuel.

With the urging and approval of the Committee, the DOE subsequently canceled its MPC program and chose to rely, instead, on the private sector for the development of such canister technologies. As anticipated, the private sector has, in fact, entered into the MPC market with vigor. There are currently seven dual-purpose (storage and transportation) canister systems undergoing reviews at the SFPO.

In addition, as more fully laid out in the Commission’s budget request, and in responses to questions from the Committee, the SFPO is also responsible for:

- Ensuring the safety of existing technologies that have been deployed throughout the nuclear energy industry as needs for “out of pool” storage have emerged;

- Reviewing and approving cask technologies necessary to support high priority non-proliferation activities of the United States, including the DOE Foreign Research Reactor Spent Fuel Receipt Program;

- Reviewing and approving the transportation technologies for nuclear materials other than spent fuel; and

Reviewing and approving, or providing support to, a host of other spent fuel storage and transportation initiatives sponsored by either the Federal government or private interests.

Given these responsibilities, additional steps need to be taken to ensure that the Office is positioned to meet the challenges it will face in the next several years. The Commission has recognized the current resource constraints under which the SFPO is operating, and a number of management initiatives undertaken by the Office are to be commended. In particular, the Committee understands that the Office is considering a policy to encourage the submission of high quality applications and/or amendments by shifting staff resources away from consideration of applications or amendments that have failed to resolve major issues after two requests for additional information from the Commission staff.

Despite these initiatives, greater attention needs to be focused on the efforts of the SFPO to meet its challenges in a timely fashion. In that vein, the Committee urges the Commission to examine the feasibility of further aligning the resources of the SFPO around the priority activities described above. The NRC should examine the staffing levels, management initiatives and organizational changes that would be necessary to further accelerate consideration of applications, amendments or reviews submitted to it by both the private sector and governmental entities. The Commission should also evaluate the merits of placing internal time limits on its consideration of applications in order to create greater consistency for applicant's expectations in the time frame for application processing.

In addition, the Committee would like the Commission to examine further management initiatives (such as those currently under review) that might be necessary in the short term to address existing budget constraints and to ensure that resources are being utilized to maximize the efficiency of application review.

4. COMMON DEFENSE AND SECURITY AND INTERNATIONAL INVOLVEMENT

This function includes funding for a host of NRC activities. In the international arena, the NRC is responsible for representing the U.S. in international policy forums, the licensing of exports and imports of nuclear materials, and international nuclear safety and assistance. Domestically, the NRC is responsible for the accounting of civilian nuclear materials, safeguards and security of civilian materials, and contingency planning for nuclear threat scenarios. H.R. 3532 authorizes \$9.7 million in Fiscal Year 1999 for Common Defense and Security and International Involvement, a 5 percent increase over the Fiscal Year 1998 estimate of \$9.3 million.

5. PROTECTING THE ENVIRONMENT

The function entitled "Protecting the Environment" includes the NRC's activities in fulfillment of the National Environmental Policy Act (NEPA), assessing the environmental risk of licensee activities, and the decommissioning of nuclear facilities (with the exception of uranium mill sites, which are funded under the Nuclear Materials Safety account). The bill authorizes \$14.9 million in Fiscal

Year 1999 for environmental protection initiatives, a 17 percent increase over the Fiscal Year 1998 estimate of \$12.7 million.

6. MANAGEMENT AND SUPPORT

This account includes all of the NRC's administrative and managerial support. For Fiscal Year 1999, H.R. 3532 authorizes \$169.3 million for Management and Support, a 3.5 percent increase over the Fiscal Year 1998 estimate of \$163.6 million.

7. INSPECTOR GENERAL PROGRAM

The NRC's Inspector General is responsible for the independent evaluation of the Commission's programs, and conducts audits, investigations, event inquiries and special evaluations. This includes oversight of NRC's whistleblower investigation and protection programs. The bill authorizes \$5.3 million in Fiscal Year 1999 for its Inspector General program, a 10 percent increase over the Fiscal Year 1998 estimate of \$4.8 million.

HEARINGS

The Subcommittee on Energy and Power held a hearing on the Fiscal Year 1999 budget request of the NRC and H.R. 3532, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1999, on March 25, 1998. The Subcommittee received testimony from: the Honorable Shirley Ann Jackson, Chairman, Nuclear Regulatory Commission; the Honorable Greta Joy Dicus, Commissioner, Nuclear Regulatory Commission; the Honorable Nils J. Diaz, Commissioner, Nuclear Regulatory Commission; and the Honorable Edward McGaffigan, Jr., Commissioner, Nuclear Regulatory Commission.

COMMITTEE CONSIDERATION

On April 22, 1998, the Subcommittee on Energy and Power met in open markup session and approved H.R. 3532, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1999, for Full Committee consideration, without amendment, by a voice vote. On April 29, 1998, the Committee on Commerce met in open markup session and ordered the bill H.R. 3532 reported to the House, without amendment, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 3532 reported. A motion by Mr. Bliley to order H.R. 3532 reported to the House, without amendment, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 3532, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1999, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 19, 1998.

Hon. TOM BLILEY,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3532, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs), Marjorie Miller (for the state and local impact), and Jean Wooster (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

*H.R. 3532—Nuclear Regulatory Commission Authorization Act for
Fiscal Year 1999*

Summary: H.R. 3532 would authorized appropriations for 1999 of \$483.3 million for the Nuclear Regulatory Commission (NRC) and \$5.3 million for the NRC's Office of Inspector General. Of these amounts, \$18.5 million would be authorized to be appropriated from the Nuclear Waste Trust Fund, with the remainder coming from the general fund of the Treasury. The bill would extend the NRC's authority to offset all of its general fund appropriations through fees and annual charges through 2003. Under current law,

this authority would otherwise expire at the end of fiscal year 1998.

H.R. 3532 would allow the NRC to spend, without appropriation action, certain collections that are currently subject to appropriation. The legislation also would authorize the NRC to accept gifts of money or property from the public to facilitate the NRC's work, and would establish a new criminal penalty for the sabotage of nuclear production, utilization, or waste storage facilities. Because these provisions would affect direct spending and receipts, pay-as-you-go procedures would apply to the bill.

By extending the NRC's authority to collect fees from utilities, section 107 would impose both an intergovernmental and private-sector mandate as defined by the Unfunded Mandates Reform Act of 1995 (UMRA). This mandate would not impose costs above the threshold established in UMRA for intergovernmental mandates (\$50 million in 1996, adjusted for inflation). CBO cannot determine whether the direct costs of the mandate would exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for inflation), because UMRA is unclear about how to define the costs associated with extending an existing mandate that has not yet expired. Depending on how they are measured, the direct costs to the private sector could exceed the threshold.

Estimated Cost to the Federal Government. The estimated budgetary impact of H.R. 3532 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATIONS							
Net NRC spending under current law:							
Budget authority ¹	18	18	0	0	0	0	0
Estimated outlays	52	22	142	47	0	0	0
Proposed changes:							
NRC spending:							
Authorization level	0	0	489	0	0	0	0
Estimated outlays	0	0	343	98	48	0	0
Offsetting collections:							
Authorization level	0	0	-467	0	0	0	0
Estimated outlays	0	0	-467	0	0	0	0
Net NRC spending under H.R. 3532:							
Authorization level ¹	18	18	22	0	0	0	0
Estimated outlays	52	22	18	145	48	0	0
CHANGES IN DIRECT SPENDING							
Estimated budget authority	0	0	(²)	(²)	(²)	(²)	(²)
Estimated outlays	0	0	(²)	(²)	(²)	(²)	(²)
CHANGES IN REVENUES							
Estimated revenues	0	0	(²)	(²)	(²)	(²)	(²)

¹ The 1998 level is the net amount appropriated for that year (gross appropriations less offsetting collections).

² Less than \$500,000.

Basis of estimate: For purposes of this estimate, CBO assumes that H.R. 3532 will be enacted by the end of this fiscal year and that all funds authorized by the bill will be appropriated. Estimated outlays are based on the historical spending patterns of the NRC.

Spending subject to appropriation

Section 101 would authorize the appropriation of \$483.3 million for 1999 for the NRC, of which \$18.5 million would be derived from the Nuclear Waste Trust Fund. In addition, \$5.3 million would be authorized to be appropriated to the NRC's Office of Inspector General for 1999.

Section 107 would extend the NRC's authority to collect user fees and annual charges sufficient to fully offset the agency's general fund appropriation for five years, through 2003. Also, section 106 would exclude any appropriation from the general fund for the cost of NRC's regulatory reviews and assistance to federal agencies from cost recovery through annual charges. CBO estimates the NRC would spend about \$3.2 million on assistance to other federal agencies in 1999, and that this sum would be excluded from offsetting collections in that year.

Direct spending and revenues

Section 103 would allow the NRC to collect and spend, without appropriation action, funds from state governments, foreign governments, and international organizations for training, travel, and other services performed by the NRC. In recent years, such collections have been made available to the NRC in annual appropriations acts. Based on information from the NRC, we estimate the agency would receive from these sources and spend about \$2.6 million in 1999, and similar amounts over the 2000–2008 period. Thus, the net budgetary impact would not be significant.

Section 203 would authorize the NRC to accept, hold, utilize, sell, and administer gifts, bequests, or donations of real and personal property for the purpose of aiding or facilitating the work of the NRC. Donations are recorded in the budget as governmental receipts (revenues). Based on information from the NRC, we estimate that receipts from such gifts would be less than \$500,000 annually. Finally, the bill would establish a new criminal penalty for the sabotage of nuclear production, utilization, or waste storage facilities. CBO estimates that enacting this provision would also increase governmental receipts by less than \$500,000 a year. Criminal fines are deposited in the Crime Victims Fund and are spent in the following year. Thus, any resulting change in direct spending from the fund would also amount to less than \$500,000 annually.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1995 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that the net changes in direct spending and governmental receipts would be less than \$500,000 a year.

Intergovernmental and private-sector impact: Under current law, the NRC collects annual fees to offset 100 percent of its general fund appropriation. The NRC's existing authority to impose these fees expires at the end of fiscal year 1998. When that authority expires, the NRC will be authorized to collect annual fees up to only 33 percent of its budget. Section 107 would extend the NRC's current authority to charge annual fees to offset all of its general fund appropriation through fiscal year 2003. The requirement to pay these fees would be a mandate as defined in UMRA.

The total amount of fees collected under this provision would depend on the level of future appropriations. Assuming appropriations in the amount authorized in this bill for 1999, CBO estimates that extending the fees would result in additional collections of about \$306 million in 1999 from industries regulated by the NRC (primarily electric utilities) and similar amounts for fiscal years 2000 through 2003. (Under current law, the industries would pay fees equal to about one-third of NRC's appropriation, or \$161 million in 1999. Under H.R. 3532, they would pay \$467 million in fees in 1999.) CBO estimates that most of the annual fees would be paid by private, investor-owned nuclear utilities (less than 5 percent would be paid by nonfederal, publicly owned utilities.)

CBO cannot determine whether this mandate would impose any costs as defined in UMRA because the law is unclear as to how to measure costs associated with extending an existing mandate that has not yet expired. Measured against the costs that would be incurred if current law remains in place and the annual fee declines, the total cost to the private sector of extending this mandate would be close to \$300 million annually, beginning in fiscal year 1999. Measured that way, the cost of the mandate would exceed the annual threshold for the private sector as defined in UMRA. By contrast, measured against the fees paid for fiscal year 1998, the mandate would impose no additional costs on the private sector because the fees under H.R. 3532 would not differ much from those currently in effect. In any case, CBO estimates that the total costs to state, local, and tribal governments would be below the threshold for intergovernmental mandates established in UMRA.

Estimate prepared by: Federal costs—Kim Cawley; impact on state, local, and tribal governments—Marjorie Miller; impact on the private sector—Jean Wooster.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

The section provides that the short title of the bill is the “Nuclear Regulatory Commission Authorization Act for Fiscal Year 1999.”

TITLE I—AUTHORIZATION

Section 101. Authorization of appropriations for Fiscal Year 1999

This section provides the aggregate authorization for NRC spending for Fiscal Year 1999. It authorizes a total of \$483,340,000 for the Commission, of which \$18,500,000 is authorized to be appropriated from the Nuclear Waste Fund. It also authorizes a total of \$5,300,000 for the NRC Inspector General.

Section 102. Allocation of amounts authorized

The section allocates the aggregate funding to the NRC’s various programs: \$211,422,000 for Nuclear Reactor Safety; \$48,869,000 for Nuclear Materials Safety; \$29,147,000 for Nuclear Waste Safety; \$9,732,000 for Common Defense and Security and International Involvement; \$14,901,000 for Environmental Protection; and \$169,269,000 for Management and Support.

It also limits the amount of funds which may be utilized for grants and cooperative agreements with non-Federal organizations to one percent of the total authorization. The section also allows the Commission to reallocate resources to programs of the NRC, but requires the notification of the Committee on Commerce in the House and the Committee on Environment and Public Works in the Senate of such reallocation if it involves more than \$1,000,000. Additionally, any funding from the Nuclear Waste Fund is limited solely for the purposes of high-level nuclear waste activities at the proposed repository at Yucca Mountain, Nevada, and may not be reallocated.

Section 103. Retention of funds

The section allows the Commission to utilize funding received from non-Federal entities for programs, salaries and expenses, notwithstanding the requirements of 31 U.S.C. 3302.

Section 104. Transfer of certain funds

This section allows the transfer of funds from the Commission to the Inspector General if required, provided that the transferred funds do not exceed no more than 5 percent of the Inspector General’s budget (approximately \$265,000). This provides the Inspector General’s office additional funding flexibility if unforeseen circumstances requiring an enhanced investigatory role arise.

Section 105. Limitation

The section limits payments authorized under this Act for salaries or expenses to those amounts provided by appropriations.

Section 106. License fee exemption

This section exempts funding for the NRC's regulatory reviews and other assistance to other Federal agencies from the calculation of charges assessed against the NRC's licensees to ensure that licensees are not burdened with funding the NRC's activities on behalf of other Federal agencies.

Section 107. NRC user fees and annual charges

The section amends section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 to extend the NRC's current authority to collect 100 percent of its budget (minus funding from the Nuclear Waste Fund and costs associated with its work with other Federal agencies) from September 30, 1998, to September 30, 2003.

TITLE II—OTHER PROVISIONS

Section 201. Office location

The section eliminates the requirement that the NRC maintain an office within the District of Columbia. Since the passage of section 23 of the Atomic Energy Act of 1954, the Commission has consolidated its headquarters at a site in Rockville, Maryland. As a result, the statutory requirement to maintain an office "for the service of process and papers" within the District of Columbia is not necessary. Under the section, process would be served at the Commission's headquarters in Rockville, Maryland.

Section 202. Period of a combined license

This section clarifies that the initial period of a combined construction and operating license for a production or utilization facility may not exceed 40 years from the date on which the Commission finds that the acceptance criteria for facility operation have been met. In the Energy Policy Act of 1992 (Public Law 102-486), Congress simplified the NRC's licensing process for production and utilization facilities, making explicit the authority of the Commission to issue a combined license for the construction and operation of such facilities. The Energy Policy Act, however, did not make explicit that the period of such a combined license should allow for the same 40 year operating period that a holder of a separately-issued operating license would have. The section simply clarifies that the 40 year limitation would not begin until the NRC finds that the facility operation acceptance criteria have been met, allowing a full 40 year operating license for production and utilization facilities utilizing the simplified licensing process.

Section 203. Gift acceptance authority

The section allows the NRC to accept gifts, bequests, or donations of real and personal property for the purpose of aiding or facilitating the work of the Commission. Such gifts, for example, may include the donation of technical publications dealing with nuclear power plant technology or the provision of specialized training for NRC employees. At present, the Commission does not have any gift acceptance authority, requiring it to decline acceptance of such gifts.

The language does not affect general Federal restrictions on gifts to employees, and these government-wide statutory requirements would remain in place for NRC employees accepting such gifts. The Committee expects that any such gifts, bequests, or donations would be used for exclusively public purposes, and that the NRC decline any gift, donation, or bequest which would have even a hint of compromising the integrity of the Commission or its employees. The Committee expects these limitations to be included in the regulatory guidance the Commission issues to implement this authority.

Section 204. Carrying of firearms by licensee employees

This section would permit guards at certain NRC licensed or certified facilities to carry arms, make arrests, and use force where necessary to prevent the theft or sabotage of special nuclear materials. The language would also prevent guards at such facilities from being prosecuted under State law for the discharge of firearms in the performance of official duties.

Current statute permits such authority only for Department of Energy security forces, although several NRC licensed or certified facilities also handle and store special nuclear materials. Under current statute, guards at these facilities are cabined by the restrictions of State law, which may allow the use of weapons by guards only to protect their own lives or the lives of others, and not to prevent the theft or sabotage of radioactive materials. The section would extend the current authorities and protections granted to DOE guards to guards at certain sites licensed or certified by the NRC.

This provision would be a valuable asset in protecting national security assets which could be subject to theft or sabotage. The Committee expects that the NRC, in issuing its regulations to implement this authority, would limit its application to employees engaged in the protection of property of significance to the common defense and security of the United States at those facilities or during transport to and from such facilities. Such facilities could include, but would not be limited to, production facilities licensed by the Commission which utilize special nuclear materials, or gaseous diffusion plants, at which guards must protect significant quantities of radioactive materials and the gaseous diffusion technology utilized to enrich uranium.

Section 205. Sabotage of production, utilization, or waste storage facilities under construction

The section would expand current statutory language prohibiting the sabotage of nuclear facilities to include nuclear waste treatment and disposal facilities, nuclear fuel fabrication facilities, and any facility during its construction phase where the damage could affect public health and safety during the facility's operation. This change simply ensures that the full range of NRC licensed or certified facilities are covered under the statute's provisions.

Section 206. Unauthorized introduction of dangerous weapons

This section would expand current statutory language authorizing the Commission to regulate the introduction of dangerous

weapons onto its own facilities to include facilities licensed or certified by the Commission. This change ensures that the full range of facilities regulated by the Commission are subject to the statutory provisions prohibiting the introduction of unauthorized weapons or other dangerous instruments, providing an additional measure of security for materials which could be subject to theft or sabotage.

Section 207. Continuation of Commissioner service

The section would allow a Commissioner whose term has expired to continue to serve until a successor has taken office. It also allows a holdover Commissioner to be removed at the President's discretion, and requires that such a Commissioner not be retained beyond the expiration of the next session of Congress subsequent to the expiration of the fixed term of office of the Commissioner. Under present statute, there is no provision for the conduct of Commission business by Commission members without a quorum of three. As recently as the period from July 1, 1995, to February 14, 1996, only two Commissioners were in place at the NRC, leading to a situation in which it was not possible for the Commission to produce a quorum. This language would reduce the potential for such circumstances in the future.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 6101 OF THE OMNIBUS BUDGET
RECONCILIATION ACT OF 1990**

SEC. 6101. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) * * *

* * * * *

(3) LAST ASSESSMENT OF ANNUAL CHARGES.—The last assessment of annual charges under subsection (c) shall be made not later than September 30, **[1998]** 2003.

* * * * *

ATOMIC ENERGY ACT OF 1954

* * * * *

TITLE I—ATOMIC ENERGY

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CHAPTER 3. ORGANIZATION

SEC. 23. OFFICE.—The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place[; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia].

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CHAPTER 10. ATOMIC ENERGY LICENSES

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SEC. 103. COMMERCIAL LICENSES.—

a. * * *

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c. Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years, and may be renewed upon the expiration of such period. *In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, prior to operation of the facility, that the acceptance criteria required by section 185.b have been met.*

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CHAPTER 14. GENERAL AUTHORITY

SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—

a. * * *

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g. (1) acquire, purchase, lease, and hold real and personal property, including patents, as agent of and on behalf of the United States, subject to the provisions of section 174, and to sell, lease, grant, and dispose of such real and personal property as provided in this Act;

(2) *accept, hold, utilize, sell, and administer gifts, bequests, or donations of real and personal property for the purpose of aiding or facilitating the work of the Nuclear Regulatory Commission. There is established in the Treasury a fund for use in accordance with the provisions of this paragraph. Any gift of money accepted pursuant to the authority granted in this paragraph, or the net proceeds from the sale of any property so accepted, shall be deposited in the fund. Such funds shall be held in trust by the Secretary of the Treasury and shall be disbursed upon certification by the Chairman of the Nuclear Regulatory Commission. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or donation if such terms are not inconsistent with this paragraph or any other applicable law. The Commission shall establish written criteria for determining whether to accept bequests, gifts, or donations of money or property pursuant to this paragraph. Such*

criteria shall take into consideration whether the acceptance of the gift, bequest, or donation would compromise the integrity of, or the appearance of the integrity of, the Nuclear Regulatory Commission or any officer or employee of the Commission;

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【k. authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States and located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this Act that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;】

k. authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize—

(1) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security; and

(2) such of those employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of property of significance to the common defense and security located at facilities owned or operated by a Commission li-

censee or certificate holder or being transported to or from such facilities;
to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission or a licensee or certificate holder of the Commission, laws applicable to property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission, or any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection;

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CHAPTER 18. ENFORCEMENT

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SEC. 229. TRESPASS UPON COMMISSION INSTALLATIONS.—

a. The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapons, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, or in the custody of the Commission *or subject to its licensing authority or to certification by the Commission under this Act or any other Act.* Every such regulation of the Commission shall be posted conspicuously at the location involved.

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SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

[a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

[(1) any production facility or utilization facility licensed under this Act;

【(2) any nuclear waste storage facility licensed under this Act;

【(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility; or

【(4) any uranium enrichment facility licensed by the Nuclear Regulatory Commission.

shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both.】

a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

(1) any production facility or utilization facility licensed under this Act;

(2) any nuclear waste storage, treatment, or disposal facility licensed under this Act;

(3) any uranium enrichment or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission;

(4) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility; or

(5) any nuclear fuel for a utilization facility licensed under this Act, or any spent nuclear fuel from such a facility;

shall be fined not more than \$10,000 or imprisoned for not more than 10 years, or both.

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SECTION 201 OF THE ENERGY REORGANIZATION ACT OF 1974

ESTABLISHMENT AND TRANSFERS

SEC. 201. (a) * * *

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(c)(1) Each member shall serve for a term of five years, each such term to commence on July 1, except that of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment; and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. For the purpose of determining the expiration date of the terms of office of the five members first appointed to the Nuclear Regulatory Commission, each such term shall be deemed to have begun July 1, 1975.

(2) *A member of the Commission whose term of office has expired may, subject to the removal power of the President, continue to serve as a member until the member's successor has taken office, except that the member shall not continue to serve beyond the expiration*

*of the next session of Congress subsequent to the expiration of the
fixed term of office.*

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